The courts have not yet arrived at any consistent theory of liability. The *Cadillac* and *Buick* cases, above, put the defective touring cars in the class of inherently dangerous things, but a Ford car is not such in Oklahoma, (*Ford Motor Car Co.* v. *Livesay,* (Okl., 1916), 160 Pac. 901). A folding bed is dangerous in California, (*Lewis* v. *Terry,* (1896), 111 Cal. 39), but an ordinary bed is not in New York, (*Field* v. *Empire & Co.,* (1918), 166 N. Y. S. 509). A buggy is not in New York, (*dicta* in *Thomas* v. *Winchester, supra*), but is in Georgia, (*Woodward* v. *Miller* (1904), 119 Ga. 618). Step-ladders are both in New York and in Minnesota, (*Miller* v. *Steinfeld,* (1917), 160 N. Y. S. 800; *Schubert* v. *Clark Co.,* (1892), 49 Minn. 331).

The *Schubert* and *Buick* cases, however, go a long way in establishing a rule that the maker of a thing to be used in a certain way, owes a legal duty to all who in the natural and ordinary course of events will probably use it in the way designed, to exercise reasonable care in its manufacture, proportioned to the danger from its use if defective, and is liable to such as are injured, when properly using it without knowledge of the defect, because of its defective condition, although the maker did not personally know of the defect, had no contract with the plaintiff, did not fraudulently deceive him, and the thing was not inherently dangerous otherwise than because of the defect. This approaches the principle stated by BRETT, M. R., (but not agreed to by the other judges), in *Heaven* v. *Pender, supra,*—"Whenever one person is by circumstances placed in such a position with regard to another that every one of ordinary sense who did think would at once recognize that if he did not use ordinary care and skill in his own conduct with regard to those circumstances he would cause danger of injury to the person or property of the other, a duty arises to use ordinary care and skill to avoid such danger." The English courts still have difficulty with the problem. *Earl* v. *Lubbock,* [1905], 1 K. B. 253 (a van); *Blacker* v. *Lake & Elliot,* (1912), 106 L. T. 533 (a lamp); *White* v. *Steadman* [1913], 3 K. B. 340,—(a vicious horse); *Bates* v. *Batey & Co.,* [1913], 3 K. B. 351, (ginger-beer bottle); *British So. African Co.* v. *Lennon,* (1915), 85 L. J. (P. C.) 111 (poison cattle dip).

H. L. W.

CONTINUOUS TRESPASS AND REPEATED WRONG.—In the recent case of *Perkins* v. *Trueblood,* (Cal., May, 1919), 191 Pac. 642, the facts were that, in March, 1912, the defendant, a surgeon, set the leg of the plaintiff, but as the fracture did not heal satisfactorily "the defendant separated the surfaces of the bone during the month of April, 1912, and again set the plaintiff's leg." In a suit for malpractice, begun on April 9, 1913, it was *held,* that the cause of action "was not barred by the CODE OF PROCEDURE, Article 340, subd. 3, prescribing a one year limitation period in such cases." It is difficult to tell from the report of the case what the theory of the court was as to the cause of action and the running of the statute of limitation, but it is evident that the court must have considered this not a case of "continuous trespass," with the old connotation of that term, but rather as a case of "repeated wrong," and that the statute began to run not from March, 1912, when the leg was originally set, but from April, 1912, the date when it was negligently reset.

The confusion of these two phrases, above quoted, has caused the courts a great deal of trouble, but wherever the facts have been of such a nature as to allow an initial wrong with continuing results to be differentiated from an initial wrong afterwards followed by a new wrong, they have reached the conclusion found in the California case. In the English case of *Clegg* v. *Dearden,* (1848), 12 Ad. and El. (N.S.) 575, a trespasser had broken through a wall in a mine and, after the statute had run on the original trespass, water had run through the hole and injured the plaintiff. It was held in an action on the case that there could be no recovery because leaving the hole was not a continuous trespass but only the result of the initial trespass, and the running of the statute had barred that trespass together with its results. In the case of the *National Copper Co.* v. *Minnesota Mining Co.,* (1885) 57 Mich. 83 the facts were identical with those in the English case and the conclusion was the same. In the case of *Gillette* v. *Tucker* (1902) 67 Ohio St. 106, a surgeon sewed up a sponge in a wound and left it there until after the statute had run on the original negligence of sewing it in the wound. The holding in this case, finally affirmed by the Ohio court in *McArthur* v. *Bowers,* (1905) 72 Ohio St. 656, was the same as in the cases of injury to land, above cited. The injury caused by the sponge remaining in the wound was held to be the *result* of the original wrongful act and not a new wrong, and recovery was denied the plaintiff because the statute had run on the original trespass. But in the case of *Perry County* v. *Railroad Co.* (1885), 43 Ohio St. 451, it was held that "each day's failure" to restore a bridge destroyed by fault of the defendant "was a fresh breach of an obligation" so to do; i. e., the leaving the hole in the road was a "repeated wrong" each successive day that it was so left.

In line with this last decision of the Ohio court it has recently been held in *Judd* v. *Blakeman* (1917), 175 Ky. 848, that each successive overflow of the plaintiff's land, caused by the negligent construction of the defendant, gave rise to a new cause of action, each successive overflow being treated as a "repeated wrong." There was a similar holding on the same state of facts in *Scheurich* v. *Empire District Electric Co.* (Mo., 1916), 188 S. W. 114. In the case of *Dick* v. *Northern Pac. Ry. Co.* (1915), 86 Wash. 211, where there was a continuous publication of a libel, each publication was held to constitute a separate libel and therefore a "repeated wrong," for which a recovery would be had, even if more than the statutory period had elapsed since the first insertion.

It would seem wise then to bring one's suit for "repeated wrong" rather than for "continuous trespass," and this too whether the action be for an injury to land, a wrong to the person or a slander to reputation. A more extensive consideration of this subject will appear in a later issue of this REVIEW. J. H. D.

RELEASE OF PARTICULAR JOINT TORT-FEASORS—EFFECT OF RESERVATION OF STIPULATION RESERVING RIGHT OF ACTION AGAINST OTHERS.—The problem indicated by the above heading is not so simple as when Judge Cooley wrote